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7 UNITED STATES DISTRICT COURT
8 WESTERN DISTRICT OF WASHINGTON
9 AT SEATTLE

10 ZUNUM AERO, INC.,

CASE NO. C21-0896JLR

11 Plaintiff,

MINUTE ORDER

12 v.

13 THE BOEING COMPANY, et al.,

14 Defendants.

15 The following minute order is made by the direction of the court, the Honorable
16 James L. Robart:

17 On December 21, 2023, and December 22, 2023, counsel for Plaintiff Zunum
18 Aero, Inc. (“Zunum”) and Defendants The Boeing Company and Boeing HorizonX
19 Ventures, LLC (together, “Boeing”) called the court to discuss several matters. In this
20 minute order, the court provides a record of those calls and guidance to the parties.

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1 **A. 12/21/2023 Call**

2 On December 21, 2023, counsel for the parties discussed the following with the
3 court: (1) Zunum’s forthcoming motion for sanctions seeking the exclusion of evidence
4 and an adverse jury instruction; (2) Boeing’s forthcoming motion for sanctions to bar
5 Zunum from claiming as trade secrets information disclosed after the court’s January 20,
6 2023 deadline (*see* 12/8/22 Order (Dkt. # 116 (sealed)) at 14); and (3) Boeing’s
7 forthcoming motions to compel discovery. The court responds to the parties’ requests for
8 clarification concerning the procedure for filing these motions below.

9 1. Motions for Sanctions

10 The parties have two questions regarding the process for filing their forthcoming
11 motions for sanctions: (1) whether the motions are “motions related to discovery” in
12 accordance with the court’s scheduling order; and (2) if so, whether the court would
13 agree to a stipulated briefing schedule for these motions. First, the parties disagree as to
14 whether their forthcoming motions for sanctions are “motions related to discovery” per
15 the court’s scheduling order. (*See* Sched. Order (Dkt. # 132) at 1 (setting the deadline for
16 motions related to discovery on January 2, 2024).)

17 The court concludes that, in this case, the parties’ proposed motions for sanctions
18 are related to discovery. The motions appear to concern Boeing’s alleged document
19 destruction and Zunum’s alleged improper supplementation of its interrogatory
20 responses. These are “motions related to discovery,” particularly if they are brought
21 under Rule 37. *See* Fed. R. Civ. P. 37 (“Failure to Make Disclosures or to Cooperate in

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1 Discovery; Sanctions"). Accordingly, these motions are technically due on or before
2 January 2, 2024. (Sched. Order at 1.)

3 Second, the parties ask whether the court would entertain a mutually agreed
4 expedited briefing schedule for the motions for sanctions. The court would prefer to rule
5 on these motions before the parties file their dispositive motions. Accordingly, the court
6 ORDERS the parties to file, by no later than **January 2, 2024**, a stipulated briefing
7 schedule for these two motions for sanctions. Although the court grants the parties leave
8 to file their motions for sanctions after the January 2, 2024 deadline for motions related to
9 discovery, the motions shall be noted for consideration by no later than January 29, 2024.

10 The parties may choose to omit reply briefing in their proposed briefing schedule.

11 2. Motions to Compel

12 Regarding Boeing's forthcoming motions to compel or any other discovery-related
13 motions, the court directs the parties to the scheduling order. (*See generally id.*)
14 Accordingly, all motions to compel are due by January 2, 2024, and the parties shall,
15 before filing any such motion, notify the court's Courtroom Deputy Clerk, Ashleigh
16 Drecktrah, to request a conference with the court. (*Id.* at 2.)

17 **B. 12/22/2023 Call**

18 On December 22, 2023, counsel for the parties called seeking clarification of the
19 court's instruction in its November 13, 2023 order that Zunum may "select up to five
20 additional custodians whose records it wants Boeing to search." (*See generally* 11/13/23
21 Order (Dkt. # 187).) The parties ask the court to clarify whether this instruction means
22 that Zunum may select five new custodians or, rather, that Zunum may only select five of

1 the 31 individuals Boeing had already identified as having received Zunum's documents.
2 (*Id.* at 12.) To clarify, Zunum may select five new custodians so that it may reasonably
3 determine whether "Boeing did in fact disseminate Zunum's confidential information
4 beyond [the] 'first wave' of [31] recipients." (*Id.*)

5 Counsel for Boeing also expressed concern that Zunum had, in contravention of
6 the court's order, identified more than 20 documents it wanted to Boeing to search for in
7 the five new custodians' documents. (*See id.*) Counsel for Zunum expressed his intent to
8 meet and confer on this issue, and the court anticipates that the parties will be able to
9 resolve this dispute reasonably and without further court intervention.

10 Filed and entered this 27th day of December, 2023.

11 RAVI SUBRAMANIAN
12 Clerk of Court

13 s/ Ashleigh Drecktrah
14 Deputy Clerk